

Regulations and other Acts

M.O., 2010-9

Order number V-1.1-2010-9 of the Minister of Finance, June 1st, 2010

Securities Act
(R.S.Q., c. V-1.1)

CONSIDERING concordant regulations to Regulation 23-102 respecting use of client brokerage commissions, approved by ministerial order no. 2010-02 dated January 31, 2010, under the Securities Act

WHEREAS subparagraphs 1, 6, 8, 16, 17, 20 and 34 of section 331.1 of the Securities Act (R.S.Q., c. V-1.1) stipulate that the Autorité des marchés financiers may make regulations concerning the matters referred to in those paragraphs;

WHEREAS the third and fourth paragraphs of section 331.2 of the said Act stipulate that a draft regulation shall be published in the Bulletin de l'Autorité des marchés financiers, accompanied with the notice required under section 10 of the Regulations Act (R.S.Q., c. R-18.1) and may not be submitted for approval or be made before 30 days have elapsed since its publication;

WHEREAS the first and fifth paragraphs of the said section stipulate that every regulation made under section 331.1 must be approved, with or without amendment, by the Minister of Finance and comes into force on the date of its publication in the *Gazette officielle du Québec* or any later date specified in the regulation;

WHEREAS the Regulation 41-101 respecting general prospectus requirements has been approved by ministerial order no. 2008-05 dated March 4, 2008 (2008, *G.O.* 2, 810);

WHEREAS the Regulation 81-101 respecting mutual fund prospectus disclosure has been made on June 12, 2008 pursuant to decision no. 2001-C-0283 (*Bulletin hebdomadaire*, vol. 32, no. 26 dated June 29, 2001);

WHEREAS there is cause to amend those regulations;

WHEREAS the draft Regulation to amend Regulation 41-101 respecting general prospectus requirements and the draft Regulation to amend Regulation 81-101 respecting mutual fund prospectus disclosure were published in the Bulletin de l'Autorité des marchés financiers, volume 6, no. 40 of October 9, 2009;

WHEREAS the Autorité des marchés financiers made, on May 10, 2010, by the decision no. 2010-PDG-0086, Regulation to amend Regulation 41-101 respecting General Prospectus Requirements and Regulation to amend Regulation 81-101 respecting Mutual Fund Prospectus Disclosure;

WHEREAS there is cause to approve those regulations without amendment;

CONSEQUENTLY, the Minister of Finance approves without amendment Regulation to amend Regulation 41-101 respecting general prospectus requirements and Regulation to amend Regulation 81-101 respecting mutual fund prospectus disclosure appended hereto.

June 1st, 2010

Minister of Finance,
RAYMOND BACHAND

Regulation to amend Regulation 41-101 respecting general prospectus requirements¹

Securities Act
(R.S.Q., c. V-1.1, s. 331.1, par. (1), (6), (8), (16), (17), (20) and (34))

1. Section 1.1 of Regulation 41-101 respecting General Prospectus Requirements is amended, in the French text:

(1) by replacing, in the definition of "option de surallocation", the words "preneurs fermes" with the words "placeurs";

(2) by deleting, in the introductory sentence of the definition of "période intermédiaire" and after the word "sens", the word "de";

(3) by inserting, at the end of the definition of "prospectus ordinaire", "ou à l'Annexe 41-101A2";

¹ Regulation 41-101 respecting General Prospectus Requirements, approved by Ministerial Order No. 200805 dated March 4, 2008 (2008, *G.O.* 2, 810), was amended solely by the regulation to amend that Regulation approved by Ministerial Order No. 2008-13 dated August 22, 2008 (2008, *G.O.* 2, 4556).

(4) by deleting, in the definition of “territoire étranger visé” and after the word “acceptables”, the words “sur les principes comptables, normes de vérification et monnaies de présentation acceptables”.

2. Section 1.3 of the Regulation is amended, in the French text, by replacing “Règlement 51-101 sur l’information concernant les activités pétrolières et gazières, ont été spécifiquement attribuées approuvé par l’arrêté ministériel n° 2005-15 du 2 août 2005” with “Règlement 51-101 sur l’information concernant les activités pétrolières et gazières approuvé par l’arrêté ministériel n° 2005-15 du 2 août 2005, ont été spécifiquement attribuées”.

3. Section 9.2 of the Regulation is amended, in the French text of paragraph (a):

(1) by replacing subparagraph (iii) with the following:

“*iii*) un exemplaire de tout contrat important qui doit être déposé en vertu de l’article 9.3 et qui ne l’a pas été en vertu du sous-paragraphe *iii* du paragraphe *a* de l’article 9.1;”;

(2) by replacing, in subparagraph (A) of subparagraph (xi), “(5^e supp.)” with “(5^e supp.)”.

4. Section 10.1 of the Regulation is amended by replacing, in the French text of subparagraph (e) of paragraph (1), the word “extraites” with the word “extraits”.

5. Section 11.2 of the Regulation is amended by replacing, in the French text of paragraph (a), the words “preneurs fermes” with the word “placeurs”.

6. Section 14.1 of the Regulation is amended by replacing, in the French text of paragraph (1), the word “fond” with the word “fonds”.

7. Section 15.1 of the Regulation is amended, in the French text, by replacing the word “bourse” with the word “bourses”.

8. Section 16.1 of the Regulation is amended by replacing, in the French text of paragraph (b), the word “tient” with the word “tenir”.

9. Schedule 1 of Appendix A of the Regulation is amended, in the French text:

(1) by replacing, in the first paragraph, “Règlement 44-101 sur le placement de titres au moyen d’un prospectus simplifié sur le placement de titres au moyen d’un prospectus simplifié” with “Règlement 44-101 sur le placement de titres au moyen d’un prospectus simplifié”;

(2) in the part under the heading “DÉFINITIONS”:

(a) by inserting, after the heading, the following definition:

“« autorité en valeurs mobilières » s’entend d’un organisme créé par une loi, dans un territoire ou un territoire étranger, en vue de l’administration de la loi, des règlements et des instructions en matière de valeurs mobilières (par exemple, une commission de valeurs mobilières), mais ne comprend pas une bourse ni un autre organisme d’autoréglementation ou ordre professionnel.”;

(b) by replacing, in the definition of “infraction”, “« *infraction* »” with “ « infraction »”;

(c) by deleting, after the definition of “organisme d’autoréglementation ou ordre professionnel”, the definition of “autorité en valeurs mobilières”;

(3) by replacing, in row (ii) of table B of item 2, “question 2B” with “question 2B *i*”.

10. Appendix B of the Regulation is amended by replacing, in the French text of the part under the heading “MANDATAIRE”, the words “Signature de l’émetteur” with the words “Signature du mandataire”.

11. Form 41-101A1 of the Regulation is amended, in the French text:

(1) by deleting, in item 1.8, the word “provisoire”;

(2) by inserting, in the instructions of item 1.11 and after the word “*préciser*”, “, *dans une note accompagnant le tableau*,”;

(3) by replacing, in paragraph (3) of item 7.1, the words “la société” with the words “l’émetteur” and the words “si elle” with the words “s’il”;

(4) in item 8.2:

(a) by replacing, at the end of subparagraph (b) of paragraph (1), “;” with “.”;

(b) by inserting, at the end of paragraph (2), the words “de l’émetteur inclus dans le prospectus en vertu de la rubrique 32”;

(5) in paragraph (1) of item 8.8:

(a) by deleting, in the introductory sentence, the word “assujetti”;

(b) by replacing, in subparagraph (b), the words “l’émetteur assujéti dans le bénéfice;” with the words “l’émetteur dans le bénéfice.”;

(6) in paragraph (6) of the instructions of item 9.1:

(a) by replacing, in the introductory sentence, the words “couverture par le bénéfice” with the words “couverture par les bénéfices”;

(b) by deleting, in the introduced reference, the words “des dividendes et”;

(7) by replacing, in subparagraph (e) of paragraph (1) of item 15.1, the words “aux paragraphes” with the words “au sous-paragraphé”;

(8) in item 22.1:

(a) by adding, at the end of subparagraph (i) of subparagraph (d) of paragraph (1), “;”;

(b) in paragraph (4):

(i) by replacing, in subparagraph (a), “, chef de la direction ou chef des finances” with the words “ou membre de la haute direction” and the words “ou bien un séquestre” with the words “ou à l’égard de laquelle un séquestre”;

(ii) by deleting, in subparagraph (b), the word “si”;

(9) by replacing, in the instructions of item 23.1, the words “à la connaissance l’émetteur” with the words “à la connaissance de l’émetteur”;

(10) by replacing, in subparagraph (ii) of paragraph (d) of item 32.4, the words “l’émetteur inclut les états financiers d’une période comptable” with the words “l’émetteur inclut les états financiers vérifiés d’une période comptable”;

(11) by deleting, in subparagraph (e) of paragraph (2) of item 35.3, the words “annuels vérifiés”;

(12) in item 35.4:

(a) by replacing the heading with the following:

“Consolidation des résultats dans les états financiers de l’émetteur”;

(b) by replacing the words “l’entreprise acquise” with the words “une entreprise acquise”;

(13) in item 35.5:

(a) by replacing, in subparagraph (b) of paragraph (1), the word “et” with the word “ou”;

(b) by inserting, in subparagraph (b) of paragraph (2) and after the words “entreprises reliées”, the word “acquises”;

(14) in item 35.6:

(a) by replacing, in paragraph (1), the words “d’une ou de plusieurs entreprises reliées” with the words “d’une entreprise ou d’entreprises reliées”;

(b) in paragraph (2):

(i) by replacing, in the introductory sentence, the words “d’une ou de plusieurs entreprises reliées” with the words “d’une entreprise ou d’entreprises reliées”;

(ii) by inserting, in subparagraph (b) and after the words “entreprises reliées”, the word “acquises”;

(c) by replacing, in paragraph (3), the words “d’une ou de plusieurs entreprises reliées” with the words “d’une entreprise ou d’entreprises reliées”;

(15) by replacing, in paragraph (b) of item 35.7, the words “dont les” with the words “pour lequel des”.

12. Form 41-101A2 of the Regulation is amended:

(1) by replacing, in the French text of the reference introduced by paragraph (3) of item 1.9, the words “**Se reporter à la rubrique Facteurs de risque**” with “**Se reporter à la rubrique « Facteurs de risque »**”;

(2) by replacing, in the French text of the reference introduced by item 1.14, the words “executer contre elle” with the words “executer contre lui”;

(3) by replacing, in the French text of subparagraph (g) of paragraph (1) of item 3.3, the word “risques” with the word “risque”;

(4) in the French text of paragraph (2) of item 3.5:

(a) by replacing, in the introductory sentence, the words “s’est s’engagé” with the words “s’est engagé”;

(a) by replacing, in the reference, the words “Mode de placement” with “« Mode de placement »”;

(5) by replacing, in the French text of the second paragraph of paragraph (3) of item 3.6, the word “**bourse**” with the word “**bourses**”;

(6) by replacing, in the French text of paragraph (3) of item 8.1, the word “importantes” with the word “importante”;

(7) in the French text of item 19.1:

(a) in paragraph (4):

(i) by replacing, in subparagraph (a), the words “ou si un séquestre” with the words “ou à l’égard duquel un séquestre”;

(ii) by replacing, in subparagraph (b), the word “exercices” with the word “années”;

(b) by replacing, in paragraph (1) of the instructions, “au paragraphe 2” with “aux paragraphes 2 et 4”;

(8) by inserting, after item 19.2, the following:

“19.2.1. Brokerage Arrangements

Under the sub-heading “Brokerage Arrangements”,

(a) If any brokerage transactions involving the client brokerage commissions of the investment fund have been or might be directed to a dealer in return for the provision of any good or service, by the dealer or a third party, other than order execution, state

(i) the process for, and factors considered in, selecting a dealer to effect securities transactions for the investment fund, including whether receiving goods or services in addition to order execution is a factor, and whether and how the process may differ for a dealer that is an affiliated entity;

(ii) the nature of the arrangements under which order execution goods and services or research goods and services might be provided;

(iii) each type of good or service, other than order execution, that might be provided; and

(iv) the method by which the portfolio adviser makes a good faith determination that the investment fund, on whose behalf the portfolio adviser directs any brokerage transactions involving client brokerage commissions to a dealer in return for the provision of any order execution goods and services or research goods and services, by the dealer or a third party, receives reasonable benefit considering both the use of the goods or services and the amount of client brokerage commissions paid;

(b) If any brokerage transactions involving the client brokerage commissions of the investment fund have been or might be directed to a dealer in return for the provision of any good or service, by the dealer or a third

party, other than order execution, since the date of the investment fund’s last prospectus or last annual information form, whichever one is the most recent, state

(i) each type of good or service, other than order execution, that has been provided to the manager or the portfolio adviser of the investment fund; and

(ii) the name of any affiliated entity that provided any good or service referred to in subparagraph (i), separately identifying each affiliated entity and each type of good or service provided by each affiliated entity; and

(c) If any brokerage transactions involving the client brokerage commissions of the investment fund have been or might be directed to a dealer in return for the provision of any good or service, by the dealer or a third party, other than order execution, state that the name of any other dealer or third party that provided a good or service referred to in paragraph (b)(i), that was not disclosed under paragraph (b)(ii), will be provided upon request by contacting the investment fund or investment fund family at [insert telephone number] or at [insert investment fund or investment fund family e-mail address].

INSTRUCTIONS:

Terms defined in Regulation 23-102 respecting Use of Client Brokerage Commissions approved by Ministerial Order No. 2010-02 dated January 31, 2010 (2010, G.O. 2, 582) have the same meaning where used in this Item.”;

(9) in the French text of item 19.9:

(a) by replacing, in subparagraph (c) of paragraph (1), the words “y compris les numéraire” with the words “y compris les espèces”;

(b) in subparagraph (a) of paragraph (4), by replacing the words “cessation de ses fonctions, fait faillite” with the words “cessation de ses fonctions, a fait faillite” and by replacing the words “ou bien un séquestre” with the words “ou à l’égard de laquelle un séquestre”;

(10) by inserting, at the end of the French text of paragraph (a) of item 21.1, the words “ou aux distributions”;

(11) in the French text of item 27.1:

(a) by replacing, in subparagraph (e) of paragraph (1), the words “de l’émetteur” with the words “du fonds d’investissement”;

(b) by replacing, in paragraph (2) of the instructions, the words “Pour l’application” with the words “Pour l’application du”;

(12) in the French text of paragraph (1) of item 28.1:

(a) by replacing, in the introductory sentence, the words “de l’émetteur” with the words “du fonds d’investissement”;

(b) by deleting, in subparagraph (c), the word “vendeur”;

(c) by replacing, in subparagraph (e), the words “aux paragraphes” with the words “au sous-paragraphes”;

(13) by inserting, in the French text of paragraph (2) of the instructions of item 31.1 and after “la contrepartie prévue,” “les dispositions de résiliation,”;

(14) by replacing, in the French text of the reference introduced by item 36.2, the words “toute modification de celui-ci dans” with the words “toute modification de celui-ci ou dans” and by deleting, in that reference, the words “ou à l’acquéreur”;

(15) by deleting, in the French text of the introductory sentence of item 37.1, “1)” and by replacing, in the French text of that sentence, the word “bourse” with the word “bourses”;

(16) by replacing, in item 37.2, the word “bourse” with the word “bourses”.

13. This Regulation comes into force on June 30, 2010.

Regulation to amend Regulation 81-101 respecting Mutual Fund Prospectus Disclosure*

Securities Act

(R.S.Q., c. V-1.1, s. 331.1, par. (1), (6), (8), (16), (17), (20) and (34))

1. Section 2.1 of Regulation 81-101 respecting Mutual Fund Prospectus Disclosure is amended by replacing the French text of paragraph (e) with the following:

“e) il ne doit pas déposer de prospectus plus de 90 jours après la date du visa du prospectus provisoire qui se rapporte au prospectus.”

* Regulation 81-101 respecting Mutual Fund Prospectus Disclosure, adopted pursuant to decision No. 2001C-0283 dated June 12, 2001 (*Bulletin hebdomadaire*, Vol. 32, No. 26 dated June 29, 2001), was amended by the regulations to amend that Regulation approved by Ministerial Orders No. 2005-06 dated May 19, 2005 (2005, *G.O.* 2, 1500), No. 2006-03 dated October 31, 2006 (2006, *G.O.* 2, 3586), No. 2008-06 dated March 4, 2008 (2008, *G.O.* 2, 726) and No. 2008-13 dated August 22, 2008 (2008, *G.O.* 2, 4556).

2. Form 81-101F2 of the Regulation is amended:

(1) by replacing, in the French text of paragraph (c) of item 10.1, the words “les dispositions de courtage” with the words “la conclusion des accords relatifs aux courtages”;

(2) by replacing item 10.4 and the related instructions with the following :

“10.4. Brokerage Arrangements

(1) If any brokerage transactions involving the client brokerage commissions of the mutual fund have been or might be directed to a dealer in return for the provision of any good or service, by the dealer or a third party, other than order execution, state

(a) the process for, and factors considered in, selecting a dealer to effect securities transactions for the mutual fund, including whether receiving goods or services in addition to order execution is a factor, and whether and how the process may differ for a dealer that is an affiliated entity;

(b) the nature of the arrangements under which order execution goods and services or research goods and services might be provided;

(c) each type of good or service, other than order execution, that might be provided; and

(d) the method by which the portfolio adviser makes a good faith determination that the mutual fund, on whose behalf the portfolio adviser directs any brokerage transactions involving client brokerage commissions to a dealer in return for the provision of any order execution goods and services or research goods and services, by the dealer or a third party, receives reasonable benefit considering both the use of the goods or services and the amount of client brokerage commissions paid.

(2) Since the date of the last annual information form, if any brokerage transactions involving the client brokerage commissions of the mutual fund have been or might be directed to a dealer in return for the provision of any good or service, by the dealer or third party, other than order execution, state

(a) each type of good or service, other than order execution, that has been provided to the manager or the portfolio adviser of the mutual fund; and

(b) the name of any affiliated entity that provided any good or service referred to in paragraph (a), separately identifying each affiliated entity and each type of good or service provided by each affiliated entity.

(3) If any brokerage transactions involving the client brokerage commissions of the mutual fund have been or might be directed to a dealer in return for the provision of any good or service, by the dealer or a third party, other than order execution, state that the name of any other dealer or third party that provided a good or service referred to in paragraph (2)(a), that was not disclosed under paragraph (2)(b), will be provided upon request by contacting the mutual fund or mutual fund family at [insert telephone number] or at [insert mutual fund or mutual fund family e-mail address].

INSTRUCTIONS:

Terms defined in Regulation 23-102 respecting Use of Client Brokerage Commissions approved by Ministerial Order No. 2010-02 dated January 31, 2010 (2010, G.O. 2, 582) have the same meaning where used in this Item.”.

3. This Regulation comes into force on June 30, 2010.

9845

M.O., 2010-10

Order number I-14.01-2010-10 of the Minister of Finance, June 1st, 2010

Derivatives Act
(R.S.Q., c. I-14.01)

CONCERNING Regulation to amend the Derivative Regulation concordant to Regulation 23-102 respecting use of client brokerage commissions approved by ministerial order no. 2010-02 dated January 31, 2010

WHEREAS subparagraphs 1, 2, 3, 11, 12, 13 and 29 of paragraph 1 of section 175 of the Derivatives Act (R.S.Q., c. I-14.01) stipulate that the Autorité des marchés financiers may make regulations concerning the matters referred to in those paragraphs;

WHEREAS the fourth and fifth paragraphs of section 175 of the said Act stipulate that a draft regulation shall be published in the Bulletin de l’Autorité des marchés financiers, accompanied with the notice required under section 10 of the Regulations Act (R.S.Q., c. R-18.1) and may not be submitted for approval or be made before 30 days have elapsed since its publication;

WHEREAS the second and sixth paragraphs of the said section stipulate that every regulation made under section 175 must be approved, with or without amendment, by the Minister of Finance and comes into force on the date of its publication in the *Gazette officielle du Québec* or any later date specified in the regulation;

WHEREAS the Derivative Regulation has been approved by ministerial order no. 2009-01 dated January 15, 2009 (2009, G.O. 2, 33A);

WHEREAS there is cause to amend this regulation;

WHEREAS the draft Regulations to amend the Derivative Regulation was published in the Bulletin de l’Autorité des marchés financiers, volume 6, no. 40 of October 9, 2009;

WHEREAS the Autorité des marchés financiers made on May 10, 2010, by the decision no. 2010-PDG-0087, Regulation to amend the Derivative Regulation;

WHEREAS there is cause to approve this regulation without amendment;

CONSEQUENTLY, the Minister of Finance approves without amendment Regulation to amend the Derivatives Regulation appended hereto.

June 1st, 2010

Minister of Finance,
RAYMOND BACHAND

Regulation to amend the Derivatives Regulation*

Derivatives Act
(R.S.Q., c. I-14.01, s. 175, par. 1, subpars. (1), (2), (3), (11), (12), (13) and (29))

1. The Derivatives Regulation is amended by adding the following after Division II.1:

“DIVISION II.2

“CLIENT BROKERAGE COMMISSIONS

“**11.22.** Regulation 23-102 respecting Use of Client Brokerage Commissions, approved by Ministerial Order No. 2010-02 dated January 31, 2010 (2010, G.O. 2, 582), applies, with the necessary modifications, to dealers and advisers governed by the Act.”

2. This Regulation comes into force on June 30, 2010.

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* The Derivatives Regulation, which was approved by Ministerial Order No. 2009-01 dated January 15, 2009 (2009, G.O. 2, 33A), was amended solely by the Regulation to amend the Derivatives Regulation, which was approved by Ministerial Order No. 2009-07 dated September 9, 2009 (2009, G.O. 2, 3690A).